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I. Zanotti

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Recommended Citation

I. Zanotti, *Regional and International Activities*, 7 U. Miami Inter-Am. L. Rev. 124 (1975)

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REGIONAL AND INTERNATIONAL ACTIVITIES

ISIDORO ZANOTTI*

*Chief, Division of Codification and Legal Integration
Department of Legal Affairs
Organization of American States*

ORGANIZATION OF AMERICAN STATES

FIFTEENTH MEETING OF CONSULTATION OF MINISTERS OF FOREIGN AFFAIRS, QUITO, NOVEMBER 8-12, 1974.

The Ninth Meeting of Ministers of Foreign Affairs serving as Organ of Consultation for the application of the Inter-American Treaty of Reciprocal Assistance (the Rio Treaty) held in Washington, D. C., in 1964, agreed to invoke Resolution I of that Treaty in applying certain measures, i.e., suspension of diplomatic and economic relations, against the Government of Cuba.

Paragraph 4 of Resolution I gave the Permanent Council of the OAS the power to revoke, by a two-thirds vote, the measures applied, if and when it was considered that the circumstances had changed.

It was agreed, however, that a Meeting of Consultation should be convoked in order to decide, at high political level, whether or not the measures in question should be suspended. Thus, by Resolution CP/RES. 117 (133/74) adopted September 20, 1974, the Permanent Council of the OAS convoked a Meeting of Ministers of Foreign Affairs, "so that, in strict observance of the principle of nonintervention of one state in the affairs of other states, and taking into account the change in the circumstances that existed when the measures against the Government of Cuba were adopted, it may decide whether there is justification for discontinuing the application of Resolution I of the Ninth Meeting of Con-

*The opinions expressed in this report are those of the author in his personal capacity.

sultation, held in Washington in 1964.” The Permanent Council also accepted with thanks “the generous offer of the distinguished Government of Ecuador to be host to the Meeting of the Organ of Consultation in the city of Quito beginning November 8, 1974.”

The Meeting of Consultation, the fifteenth of the series, was held in Quito from November 8 to 12, 1974, and was attended by eighteen Ministers of Foreign Affairs and three Special Delegates of Member States of the OAS; two Member States, Barbados and Jamaica, sent observers. These States are not parties to the Rio Treaty and, therefore, could not take part in the voting.

In the course of the deliberations, a draft resolution was submitted by the delegations of three Member States. This draft provided for the discontinuance of the application of Resolution I of the Ninth Meeting of Consultation of Ministers of Foreign Affairs. When the draft resolution was put to a vote on November 12, the results were as follows: twelve countries voted in favor; three voted against, and six abstained. Consequently, the two-thirds vote required for approval, in accordance with the Inter-American Treaty of Reciprocal Assistance, was not obtained.

APPLICATION OF GRENADA FOR MEMBERSHIP IN THE OAS

On November 15, 1974, the Prime Minister and Minister of Foreign Affairs of Grenada, Doctor Eric M. Gairy, addressed a note to the Secretary General of the OAS stating that, in compliance with the requirement set forth in Art. 6 of the Charter of the Organization, his Government “declares that Grenada is willing to sign and ratify the Charter of the Organization and to accept all the obligations inherent in membership, especially those relating to collective security expressly set forth in Articles 27 and 28 of the Charter.”

The note was transmitted by the Secretary General to the Chairman of the Permanent Council of the OAS, for the purpose set forth in Art. 7 of the Charter of the Organization. Art. 7 of the Charter of the OAS provides:

The General Assembly, upon the recommendation of the Permanent Council of the Organization, shall determine whether it is appropriate that the Secretary General be authorized to permit the applicant State to sign the Charter and to accept the deposit of the corresponding instrument of ratification. Both the

recommendation of the Permanent Council and the decision of the General Assembly shall require the affirmative vote of two thirds of the Member States.

INTER-AMERICAN JURIDICAL COMMITTEE

The Committee held a regular meeting from September 30 to October 28, 1974 at its headquarters in Rio de Janeiro. It approved a statement of reasons for its previous decision on cases of violations of the principle of nonintervention. The statement of reasons, the list of cases of violations to that principle, and the explanation of votes of some of the members of the Committee were sent to the General Secretariat to be forwarded to the Permanent Council.

The Committee also prepared its annual report for submission to the fifth regular session of the General Assembly to be held in April 1975 in Washington, D.C. It received reports prepared by the Chairman of the Committee, Dr. Reynaldo Galindo Pohl, and Dr. Seymour J. Rubin, member of the Committee, on certain points of the agenda of the Committee for the study of the multinational commercial companies. Both Rapporteurs made extensive oral explanations of their reports. The Committee decided that at its next meeting to begin February 17, 1975 it will give full consideration to both reports, as well as to reports by other Rapporteurs of topics on the agenda on the same subject.

COURSE ON INTERNATIONAL LAW

With the support of the General Assembly, the Inter-American Juridical Committee organized a Course on International Law to be held once a year. This activity is similar to the Seminar that the United Nations carries out every year in Geneva during the meetings of the International Law Commission.

The first Course organized by the Inter-American Juridical Committee was held in September-October 1974 with the collaboration of the Fellowship Program and the Department of Legal Affairs of the General Secretariat. It was carried out at the headquarters of the Getulio Vargas Foundation in Rio de Janeiro.

There were thirty-one participants. Twelve persons from twelve different Latin American countries, selected from sixty-two candidates,

received fellowships from the OAS; four attended on their own and were accepted by the General Secretariat; and fifteen were selected by the Institute of Public Law and Political Science of the Getulio Vargas Foundation. Among the thirty-one participants there were nine professors of international law, five officers from Ministries of Foreign Affairs, eight public officials, some practicing lawyers, and others from various organizations.

Several members of the Inter-American Juridical Committee and some visiting professors, delivered lectures and conducted seminars on the following topics — Law of the Sea: Sovereignty or jurisdiction of the coastal state over the 200 miles, continental shelf, sea-bed and ocean floor, peaceful uses of the sea, comparative legislation of the American Countries relating to the sea, territorial sea — the Brazilian experiment, legal problems of the contamination of the sea, results of the Third United Nations Conference on the Law of the Sea. Law of economic integration: General Introduction, LAFTA, Andean Group, treatment of foreign investment, Latin American multinational enterprise, legal regime and control of multinational corporations, Caribbean community, Decision 24 of the Commission of the Cartagena Agreement, economic integration and national law the case of Colombia community law and national law. Private International Law: General introduction, with special reference to the topics of the Inter-American Specialized Conference on Private International Law (CIDIP), corporations, domicile of corporations, international commercial arbitration, the importance of updating the rules of Private International Law. Two other lectures covered indemnification in case of nationalization of foreign property, and the Inter-American System.

The Director of the Course was Dr. Isidoro Zanotti, Chief of the Division of Codification and Legal Integration of the OAS General Secretariat. At the conclusion of the Course he submitted a report to the Inter-American Juridical Committee, with complete information about the background, organization, objectives and topics covered in the Course, professors, participants, lectures and seminars, and other pertinent information.

The second Course on International Law will also be held in Rio de Janeiro during the Inter-American Juridical Committee's regular meeting to be held in 1975, most likely in July-August. The Committee decided that the Second Course will cover the following main subjects: 1) Law of the Sea: Topics of special interest to the American countries considered

by the Third United Nations Conference on the Law of the Sea; evaluation of the session at Geneva. 2) Legal aspects of economic integration. 3) Multinational, transnational enterprises. 4) American Convention on Human Rights, signed at San Jose, Costa Rica in November 1969. 5) Evaluation of the results of the Inter-American Specialized Conference on Private International Law. 6) Improvement of the rules, methods and procedures for the adoption of multilateral conventions and treaties in the Inter-American System, or for the amendment of the existing instruments.

UNITED NATIONS

MULTINATIONAL CORPORATIONS

The report of the Secretary General and the report of the Group of Eminent Persons to Study the Impact of Multinational Corporations on Development and on International Relations were published by the U.N. Department of Economic and Social Affairs (E/5500 Rev. 1, ST/ESA/6, United Nations, New York, 1974. 162 p.). Nine members of the Group presented individual comments, in some cases expressing different views than those contained in the conclusions of the report of the Group.

In the introduction to his report the Secretary General of the United Nations recalls that the Economic and Social Council, in Resolution 1721 (LIII) adopted unanimously on July 2, 1972, requested the Secretary General to appoint a "group of eminent persons . . . to study the role of multinational corporations and their impact on the process of development, especially that of the developing countries, and also their implications for international relations, to formulate conclusions which may possibly be used by Governments in making their sovereign decisions regarding national policies in this respect, and to submit recommendations for appropriate international action." The resolution also requested the Secretary General to submit the report of the Group, "together with his own comments and recommendations, to the Economic and Social Council at its fifty-seventh session."

It is stated that the report of the Secretary General is in response to the above resolution. It is also stated that the most remarkable feature of the work of the Group is that, despite the heterogeneity of its membership and the complexity of the subjects, the Group was "unanimous in

its recommendations for international machinery and action." The Secretary General acknowledged with appreciation the pioneering effort of the twenty members of the group, and recalled that the report of the Group proposes the machinery and program of work for filling an important vacuum at the international level, and indicated he is convinced that in so doing the Group has fulfilled a major first step in the continuing involvement of the United Nations in a subject whose importance has been widely recognized.

The Secretary General also pointed out that the main proposal of the Group calls for the continuing involvement in the issue of multinational corporations of the Economic and Social Council assisted by a commission on multinational corporations specifically created for this purpose. In addition, the establishment of an information and research center is recommended to provide services for the commission. He fully supports the conclusion of the Group that the Economic and Social Council is the appropriate intergovernmental body to be entrusted with the over-all consideration of the subject.

He recalled that, although this recommendation is innovative in that it entails a more comprehensive undertaking for ECOSOC, the involvement of the United Nations in related matters is not without precedent. As early as 1948, the United Nations played an important role in the preparation of the Havana Charter for an International Trade Organization, and in 1953, ECOSOC considered a draft convention on restrictive business practices. Furthermore, the three United Nations Conferences on Trade and Development adopted resolutions referring to many aspects of the subject. More recently, the Security Council and the General Assembly at its sixth special session approved resolutions on the same and on other matters relating to the political, legal and economic aspects of the activities of multinational corporations.

He recognized, however, that it was the first time that it had been suggested that a full discussion of the issues related to multinational corporations should take place in the ECOSOC at least once a year. He mentioned that the Group was unanimous in its conviction that the deliberations and decision-making process of ECOSOC would be greatly facilitated and enhanced if the Council were supported in its work in the field by a body specifically designed for the purpose, and thus the Group recommended that a commission on multinational corporations should be established under ECOSOC, composed of individuals with a profound understanding of the issues and problems involved.

The Secretary General fully endorsed the recommendation regarding the nature, objectives and terms of reference of the proposed commission on multinational corporations, expressing that these corporations, which can be at once effective instruments of development and sources of tensions or conflicts, have become increasingly important in virtually every aspect of international life. On the basis of several considerations, the Secretary General recommended that ECOSOC should consider the immediate establishment of a commission on multinational corporations, consisting of twenty five members serving in their individual capacity and with the terms of reference suggested by the Group.

He also indicated that parallel to the need to establish a commission on multinational corporations for ECOSOC is the need to set up an information and research center for the commission. The most obvious requirement is the provision of substantive and administrative services to the commission.

The Report of the Group of Eminent Persons to Study the Impact of Multinational Corporations on Development and on International Relations is divided into three parts: Part one. Introduction. I. Impact on development. II. Impact on international relations. III. International machinery and action. Part two. Some specific issues: IV. Ownership and control. V. Financial flows and balance of payments. VI. Technology. VII. Employment and labour. VIII. Consumer protection. IX. Competition and market structure. X. Transfer pricing. XI. Taxation. XII. Information disclosures and evaluation. Part three: Comments by individual members of the Group.

In the introduction of the report, the Group stresses that multinational corporations are important actors on the world stage and that their spread and growth has been one of the outstanding phenomena of the last decades.

It is stated that "Multinational corporations are enterprises which own or control production or service facilities outside the country in which they are based. Such enterprises are not always incorporated or private; they can also be cooperatives or state-owned entities." In a footnote it is explained that there was general agreement in the Group that the word "enterprise" should be substituted for corporations, and a strong feeling that the word transnational would better convey the notion that these firms operate from their home bases across national borders. However, the term "multinational corporations" is used in the report in conformity with ECOSOC Resolution 1721 (LIII).

The report also states that most countries have recognized the potential of multinational corporations and have encouraged the expansion of their activities within their national borders. At the same time, certain practices of multinational corporations have given rise to widespread concern and anxiety in many quarters and a strong feeling has emerged that the present *modus vivendi* should be reviewed at the international level. Overall, "one conclusion emerges: fundamental new problems have arisen as a direct result of the growing internationalization of production as carried out by multinational corporations."

The Eminent Persons indicate that in their report they seek to identify and analyze the most urgent areas of concern and to propose action for political decision-making. They regard their recommendations, which are addressed to Governments and to intergovernmental bodies, as the first step towards a program for harnessing the capacities of multinational corporations for world development, while safeguarding the legitimate interests of all the parties involved.

In the section of the Introduction dealing with world perspective, the report stresses that the role of multinational corporations should be viewed in the context of the world economic and political system within which they operate. Most industrialized developed countries have, in recent years, experienced unprecedented levels of material prosperity and economic growth. For the developing countries and thus for the vast majority of mankind, the issue is more basic: it is a question simply of attaining a minimum level of subsistence.

Under the different chapters and sections of the report, the Eminent Persons formulate several recommendations. Following is the text of some of these recommendations or statements, with the indication of each chapter or subject under which they are made.

I. Impact on Development

The Impact: Some Problems

The Group recommends that international public aid should be increased, as recommended by the International Development Strategy, and directed to the basic needs of the poorest part of the population in developing countries, especially with regard to food, health, education, housing, and social services, as well as the development of indigenous industries (p. 36).

Improving the Impact: National Policy Framework

(a) Negotiating with multinational corporations:

The Group recommends that host countries should consider setting up centralized negotiating services or co-ordinating groups to deal with all proposals for foreign investment, especially from multinational corporations (p. 38).

The Group recommends that in the initial agreement with multinational corporations, host countries should consider making provision for the review, at the request of either side, after suitable intervals, of various clauses of the agreement. The review by the host country should be carried out by the negotiating services or co-ordinating groups recommended above (p. 38).

The Group recommends that developing countries should consider including provisions in their initial agreements with multinational corporations which permit the possibility of a reduction over time of the percentage of foreign ownership; the terms, as far as possible, should also be agreed upon at the very beginning, in order to minimize the possibilities of future conflict and controversy (p. 39).

(b) Treatment of foreign investment

The Group recommends that host countries should adopt policies towards affiliates of multinational corporations similar to those applied to indigenous companies, unless specific exceptions are made in the national interest (p. 40).

Regional Cooperation

The Group recommends that developing countries should intensify their efforts for regional co-operation, in particular the establishment of joint policies with regard to multinational corporations. The United Nations should study the experience of existing regional groups as it relates to multinational corporations and should disseminate relevant information to developing countries and provide technical assistance to them (p. 42).

II. Impact on International Relations. Intergovernmental Confrontations

The Group recommends that whenever there is occasion to nationalize the assets of a multinational corporation, host countries

should ensure that the compensation is fair and adequate and determined according to due process of law of the country concerned, or in accordance with any arbitration arrangements existing between the parties (p. 48).

III. International Machinery and Action

The Group recommends that a full discussion on the issues related to multinational corporations should take place in the Economic and Social Council at least once a year, in particular to consider the report of the commission on multinational corporations (p. 52).

The Group recommends that a commission on multinational corporations should be established under the Economic and Social Council, composed of individuals with a profound understanding of the issues and problems involved (p. 52).

Information and Research Center on Multinational Corporations.

Technical Cooperation

The Group recommends that an information and research centre on multinational corporations should be established in the United Nations Secretariat or closely linked with it, which, under the general guidance of the commission on multinational corporations, would perform the following functions:

(a) Provide substantive and administrative services for the commission on multinational corporations;

(b) Collect, analyze and disseminate information, and undertake research along the lines recommended above (p. 54).

The Group recommends that the technical cooperation capacity of the United Nations in matters related to multinational corporations should be significantly strengthened and expanded in the areas of training and advisory services (p. 54).

Technology

In particular, we have noted the difficulties faced by developing countries in obtaining technology that is appropriate for their needs at a reasonable cost. To this end, we believe the current work by such United Nations bodies as UNCTAD, UNIDO, UNESCO and

ILO, should give special consideration to ways of improving the machinery for producing technology in both developed and developing countries which is appropriate for and readily available to the latter. The international organizations concerned should work towards revising the patent system and evolve an over-all régime under which the cost of technology provided by multinational corporations to developing countries can be reduced. Consideration should also be given to establishing a world patents (technology) bank to which public institutions could donate for use in developing countries patents which they own or purchase for this purpose (pp. 55-56).

Proposed terms of reference of the Commission on Multinational Corporations

The Commission on Multinational Corporations, acting as a subsidiary body of the Economic and Social Council, should assist the Council in fulfilling its functions with regard to multinational corporations within the United Nations system. In order to do so, the commission should:

(a) Act as the focal point within the United Nations system for the comprehensive consideration of issues relating to multinational corporations;

(b) Receive reports through the Council from other bodies of the United Nations system on related matters;

(c) Provide a forum for the presentation and exchange of views by Governments, intergovernmental organizations and non-governmental organizations, including multinational corporations, labour, consumer and other interested groups;

(d) Undertake work leading to the adoption of specific arrangements or agreements in selected areas pertaining to activities of multinational corporations;

(e) Evolve a set of recommendations which, taken together, would represent a code of conduct for Governments and multinational corporations to be considered and adopted by the Council, and review in the light of experience the effective application and continuing applicability of such recommendations;

(f) Explore the possibility of concluding a general agreement on multinational corporations, enforceable by appropriate machin-

ery, to which participating countries would adhere by means of an international treaty;

(g) Conduct inquiries, make studies, prepare reports and organize panels for facilitating a dialogue among the parties concerned;

(h) Organize the collection, analysis and dissemination of information to all parties concerned;

(i) Promote a programme of technical cooperation, including training and advisory services, aimed in particular at strengthening the capacity of host, particularly developing, countries in their relations with multinational corporations (p. 57).

Composition

The Commission should consist of 25 members, serving in their individual capacity, nominated by the Secretary General and approved by the Economic and Social Council for a renewable three-year term.

In the selection of the commission, due regard should be given to geographical distribution, as well as to the respective backgrounds of its members, including politics, public service, business, labour and consumer interests and the academic professions. There should be equal representation of business and labour interests (pp. 57-58).

Working Arrangements

The Commission should hold one session a year; it may hold special sessions or establish working groups to deal with specific questions.

The Commission should submit an annual report to the Economic and Social Council and issue reports on specific subjects (p. 58).

IV. Ownership and Control

The Group recommends that host countries should clearly define and announce the areas in which they are ready to accept foreign investment and also the conditions upon which such investment will be allowed in those sectors. In particular, developing countries should be encouraged to retain ownership of their natural resources or control the use of them (p. 59).

The Group recommends that where ownership is an important objective for host countries, consideration should be given to the establishment of joint ventures as well as to the reduction over time of the share of foreign equity interests (p. 61).

V. Financial Flows and Balance of Payments

The more basic issue with regard to balance of payments is whether the particular investment will mean a net contribution to the country's ability to meet foreign exchange requirements over time, after allowing for all the outgoings in servicing the investment as well as other consequential remittances, for example, through transfer-pricing devices (p. 63).

... in order for correct decisions to be made, the problem should be considered not simply in terms of the impact of identifiable inflows and outflows attributable to the presence of multinational organizations, but in the wider perspective of the country's over-all development (p. 63).

In appraising foreign investment proposals by multinational corporations, host countries should thus assess their over-all contribution to development as well as their contribution to the country's ability to meet foreign exchange requirements, and compare them with possible alternatives (p. 64).

VI. Technology

The multinational corporations have become the most important sources of a certain type of technology. Their affiliates can draw upon the knowledge of the entire organization of which they are a part. This is one of their main advantages over indigenous firms, and one of their main attractions for host countries. In practice, however, the full transfer of knowledge may not take place; partly because it is not always suitable for use by the affiliate and partly because the parent company will not always wish to make it available (p. 66).

In obtaining technology from multinational corporations, the enterprises of the developing countries are in a particularly weak bargaining position because of their lack of capital and necessary technical skills. More generally, the developing countries are in a vulnerable position because, unlike the developed countries, they

do not participate in the two-way exchange of technology to any extent, so that the imperfections of an oligopolistic market are not even partially offset in their favour (p. 66).

The choice of products

The Group recommends that before a multinational corporation is permitted to introduce a particular product into the domestic market, the host Government should carefully evaluate its suitability for meeting local needs (p. 68).

The choice of technology

The Group recommends that the machinery for screening and handling investment proposals by multinational corporations, recommended earlier, should also be responsible for evaluating the appropriateness of the technology, and that its capacity to do so should, where advisable, be strengthened by the provision of information and advisory services by international institutions (p. 69).

The source of technology

The Group recommends that host countries should require multinational corporations to make a reasonable contribution towards product and process innovation of the kind most suited to national or regional needs, and should further encourage them to undertake such research through their affiliates. These affiliates should also be permitted to export their technology to other parts of the organization at appropriate prices (p. 70).

The cost and conditions of acquiring technology

The Group draws attention to the work of the Economic and Social Council and UNCTAD on technology (including decision 104 (XIII) of the Trade and Development Board on exploring the possibility of establishing a code of conduct for the transfer of technology) and recommends that international organizations should engage in an effort to revise the patent system and to evolve an over-all régime under which the cost of technology provided by multinational corporations to developing countries could be reduced (p. 72).

The Group supports the establishment of a world patents (technology) bank to which any public institution may donate for use

in developing countries patents which it owns or purchases for this purpose (p. 72).

Alternative means of acquiring technology

The Group recommends that host countries should explore alternative ways of importing technology other than by foreign direct investment, and should acquire the capacity to determine which technology would best suit their needs. It also *recommends* that international agencies should help them in this task (p. 73).

VIII. Consumer Protection.

The Group recommends that the host countries should require the affiliates of multinational corporations to reveal to them any sales prohibitions and restrictions in manufacturing imposed by home or by other host countries with respect to the protection of the health and safety of consumers. They should then decide whether similar restrictions or warnings should be imposed on the sale and manufacture of those products in their countries; in such cases, these measures should apply to similar products regardless of their origin (pp. 81-82).

The Group recommends that home countries should publicize prohibitions and restrictions on products, or ingredients of products, found to be hazardous to health, and should consider whether their export should also be prohibited or made conditional upon specific approval by the importing country (p. 82).

Nine members of the Group presented comments which in many ways disagree with some of the recommendations or statements contained in the report. The most extensive comments are those by Jacob K. Javits, Ryutaro Komiya, J. Irwin Miller, and Hans Schaffner. The comments by the nine members should be read in order to get a comprehensive idea of the feeling of the Group of Eminent Persons. In the comments by Schaffner there are several ideas about the legal aspects, pointing out that these aspects are scarcely taken into account in the report, and that many vague legal terms are used which could lead to varying interpretations and to misunderstanding. He also indicates that it is a matter of urgency to spell out clearly what legal authority the United Nations and its Economic and Social Council actually possess.

ENVIRONMENT

At its second session held in Nairobi from March 11 to 22, 1974, the Governing Council of the U.N. Environment Program decided that the specific areas of concentration should be selected in close conformity with the general criteria adopted at the first session of the Governing Council and in the light of the following considerations: (a) The program should be action-oriented and based on the best possible scientific information and advice; (b) the program should be compatible with the International Development Strategy for the Second United Nations Development Decade and the World Plan of Action for the Application of Science and Technology to Development; (c) there should be an appropriate balance between the activities undertaken by the members of the United Nations system, intergovernmental and non-governmental organizations and, on the other hand, the national activities of regional or international significance; (d) special emphasis should be placed on satisfying the needs of developing countries; (e) special attention should be paid to the development of institutional capabilities, particularly in the developing world.

The Governing Council established some guidelines on the future development of the program in the following matters: Natural disasters, particular environmental problems of specific industries, eco-development, development of the international law of environment.

The Governing Council concluded that the Executive Director of the Environment Program should take into account the following considerations in dealing with the development of international law of environment: (a) Solutions to many environmental problems are dependent on adequate law relating to the environment, taking into account regional requirements and approaches; (b) the development of international environmental law requires the collaboration of Governments and intergovernmental bodies; (c) UNEP has no formal mandate in this connection; however, it can facilitate this development by initiating consultations between experts; (d) in initiating such consultations, there is a need to inform all Governments, as well as intergovernmental bodies concerned with the environment, in order that the viewpoints of all interested Governments and the widest range of expertise possible be brought to bear on this problem.

The Governing Council suggested that the Executive Director, in the implementation of the Program in the next year, should pay particular attention to the following areas: Development of environmentally sound technology related to human settlements, low-cost building techniques,

water and waste treatment; technological and social solutions to human settlement problems especially in transitional settlements, pilot projects, eco-development; rural development; register of potentially toxic chemicals; trade, economics, technology and transfer of technology; environmentally sound post management—pilot projects; management of arid and semi-arid lands and tropical forest ecosystems—problems of desertification; protection of endangered species—expansion of national parks systems; conservation of wetlands and of waterfowl and other migratory species; conservation of genetic resources; eco-development.

Attention should also be paid to the following functional tasks: Global Environmental Monitoring System; International Referral System; development of environmental management and assessment capabilities; education, information, training and technical assistance.

INTERNATIONAL LAW COMMISSION

The Seventh report on succession of States in respect of matters other than treaties has been prepared by Mr. Mohammed Bedjaoui, Special Rapporteur, and published on July 3, 1974 (A/CN. 4/282). The document contains draft Art. 1 to 31, with commentaries. The first eight articles have been already adopted by the International Law Commission. The Rapporteur adds Art. *x*, *y* and *z*, after Art. 11, and deletes the section concerning the disappearance of a State through partition or absorption.

According to Art. 1, the present articles apply to the effects of succession of States in respect of matters other than treaties, and Art. 2 states that the present articles apply only to the effects of a succession of States occurring in conformity with international law and, in particular, the principles of international law embodied in the Charter of the United Nations. Part one of the draft articles deals with succession to State property.

Definition of State property is found in Art. 5, as follows: For the purpose of the articles in the present part, "State property" means property, rights and interests which, on the date of the succession of the State, were according to internal law of the predecessor State, owned by that State. Under Art. 6, a succession of States entails the extinction of the rights of the predecessor State and the arising of the rights of the successor State to such of the State property as passes to the successor State in accordance with the provisions of the present articles.

Art. 12 to 15 deal with the transfer of part of a territory, treasury and State funds, State archives and libraries, State property situated outside the transferred territory. Under Art. 12, currency, gold and foreign exchange reserves, and, in general, monetary tokens of all kinds placed in circulation or stored by the predecessor State in the transferred territory and allocated to that territory shall pass to the successor. State. Art. 14 provides that State archives and libraries of every kind relating directly to or belonging to the transferred territory shall, irrespective of where they are situated, pass to the successor State.

In the case of newly independent States, the successor State shall have at its disposal the currency, gold and foreign exchange reserves and all monetary tokens placed in circulation or stored by the predecessor State in the territory which has become independent and allocated to that territory (Art. 16). Liquid or invested funds which have been allocated by the predecessor State to the territory to which the succession of States relates shall pass to the newly independent State (Art. 17).

UNCITRAL

The seventh session of the United Nations Commission on International Trade Law was held at the United Nations in New York from 13 to 17 May, 1974. It considered, among other topics, the international sale of goods, international payments, international legislation on shipping, multinational enterprises, ratification of or adherence to conventions concerning international trade law. (Report on the work of the seventh session, General Assembly Official Records: Twenty-ninth session, supplement No. 17 (A/9617), United Nations, New York, 1974).

On the international sale of goods, the Commission had before it the report of the Working Group on the International Sale of Goods relating to the fifth session held at Geneva from January 22 to February 1, 1974. The report sets forth the progress made by the Working Group in implementing the mandate of the Commission to ascertain which modifications of the text of the Uniform Law on International Sale of Goods (ULIS), annexed to the 1964 Hague Convention, might render such uniform rules capable of wider acceptance. The report mentions the action carried out by the Working Group at its fifth session with respect to Art. 58 to 101 of ULIS. Thus, the Working Group completed the initial examination of the text of the uniform law.

The report of the Working Group was extensively considered by the Commission at its seventh session. Finally, the Commission took note with appreciation of the report of the Working Group; recommended that the latter consider the comments and proposals made at the seventh session of the Commission; and that it continue and complete its work expeditiously under the terms of reference set forth by the Commission.

On the subject of negotiable instruments, the Commission had before it the report of the Working Group on International Negotiable Instruments on the work of its second session held in New York from 7 to 18 of January, 1974. The report sets forth the progress made by the Working Group in preparing a final draft uniform law on the international bills of exchange and international promissory notes, and in considering the desirability of preparing uniform rules applicable to international cheques.

After due consideration of the report, the Commission decided to take note of it, with appreciation, and to request the Working Group on International Negotiable Instruments to continue its work under the terms of reference set forth by the Commission and to complete that work expeditiously. It also requested the Secretary General to carry out further work in connection with the draft uniform law on international bills of exchange and international promissory notes, and inquiries regarding the use of cheques in settling international payments.

On the topic of international legislation on shipping, the Commission considered the report of the Working Group on International Legislation on Shipping formulated at its sixth session relative to the progress made at that session on the revision of the rules of the 1924 International Convention for the Unification of Certain Rules of Law relating to Bills of Lading (Brussels Convention of 1924) and the 1968 Brussels Protocol thereto. The Working Group discussed and acted on the following matters: liability of ocean carriers for delay; documentary scope of the convention; geographic scope of the convention; elimination of invalid clauses in bills of lading; carriage of cargo on deck; carriage of live animals; definition of "carrier"; "contracting carrier" and "actual carrier", and definition of "ship".

The Commission examined the report of the Working Group, and recommended that the latter consider the comments and proposals made at the seventh session of the Commission. It further requested the Working Group to continue its work under the terms of reference set forth by the Commission, and to complete the work expeditiously.

The matter of multinational enterprises was also discussed by the Commission, which agreed to request the Secretary General to submit to the Commission, for consideration at its eighth session, a report setting forth: (a) An analysis of the replies received from Governments and international organizations to the questionnaire drawn up at its request concerning legal problems presented by multinational enterprises; (b) a survey of available studies, including those by United Nations organs and agencies, insofar as these studies disclose problems arising in international trade resulting from the operations of multinational enterprises; (c) suggestions as to the Commission's future course of action, in terms of a work program and working methods in this particular area.

On the ratification of conventions on international trade law, the Commission decided to maintain the question on its agenda, and to examine this topic at its ninth session with special reference to the state of ratification of the Convention on the Limitation Period in International Sale of Goods.

Another topic studied by the Commission was the liability for damage caused by products intended for or involved in international trade. The Commission agreed to request the Secretary General to prepare a report for consideration by the Commission at its eighth session, covering: (a) A survey of the work of other organizations re civil liability for damage caused by products; (b) the main problems that may arise in this area from the solutions already adopted in national legislation, or being contemplated by international organizations; (c) suggestions as to the Commission's future course or action.

U.N. COMMITTEE ON THE PEACEFUL USES OF OUTER SPACE

The Committee met in July 1974 at the U.N. Headquarters, to consider the report of its Legal Sub-Committee, of its Scientific and Technical Sub-Committee, and of the Working Group on Direct Broadcast Satellites. The report on this meeting was published by the United Nations (General Assembly, Official Records: Twenty-Ninth Session, Supplement No. 20 (A/9620).

The Committee took note that the Legal Sub-Committee had adopted a draft convention on registration of objects launched into outer space. The Committee also acknowledged the outstanding work done by the Legal Sub-Committee, and agreed to submit the draft convention for consideration and final adoption at the twenty-ninth session of the Assembly.

At the July 1, 1974 meeting of the Committee, the Chairman of Working Group II of the Legal Sub-Committee discussed at length the work of the Working Group in connection with the draft convention. He recalled that the General Assembly, by Resolution 3182 (XXVIII) of December 18, 1973, requested the Legal Sub-Committee to give the highest priority to the draft treaty relating to the Moon and the draft convention on registration of objects launched into outer space. The General Assembly also requested the Sub-Committee to give high priority to the question of elaborating principles governing the use by States of artificial earth satellites for direct television broadcasting with a view to concluding an international agreement or agreements, and to devote part of its next session to the legal implications of the earth's resources survey by remote sensing satellites. The General Assembly also requested the Sub-Committee to consider, time permitting, matters relating to the definition and/or delimitation of outer space and outer space activities.

The Chairman also recalled that three Working Groups had been established for that purpose. Working Group I dealt with the treaty relating to the Moon, based on a draft consisting of a preamble and twenty-one articles which were approved by the Legal Sub-Committee in 1972; six provisions were endorsed by the Working Group in 1973. In spite of lengthy debate, it was not possible to reach an agreement on the legal status of the natural resources of the Moon. Working Group II dealt with the convention on registration of objects launched into outer space. Working Group III was established to study the report of the Working Group on Broadcast Satellites. The Chairman, then, presented to the Committee on the Peaceful Uses of Outer Space, the draft convention (summarized below) on registration of objects launched into outer space.

The Preamble states that the States Parties to the convention: recognize the common interest of all mankind in furthering the exploration and use of outer space for peaceful purposes; recall that the Treaty on Principles Governing the Activities of States in the Exploration and the Use of Outer Space, including the Moon and Other Celestial Bodies, affirms that States bear international responsibility for their national activities in outer space and refers to the State on whose registry an object launched into outer space is carried; recall also that the Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space provides that a launching authority shall, upon request, furnish identifying data prior to the return of an object it has launched into outer space found beyond the limits of the

launching authority; recall further that the Convention on International Liability for Damage Caused by Space Objects establishes international rules and procedures concerning liability of launching States for damage caused by their space objects.

Article 1 of the Draft established certain definitions, for the purpose of the Convention: a) The term "Launching State" means: i) a State which launches or procures the launching of a space object; ii) a State from whose territory or facility a space object is launched; b) the term "space object" includes component parts of a space object as well as its launch vehicle and parts thereof; c) the term "State of registry" means a launching State on whose registry a space object is carried in accordance with Article II.

According to Art. II: 1. When a space object is launched into orbit or beyond, the launching State shall register the space object by means of an entry in an appropriate registry which it shall maintain. Each launching State shall inform the Secretary General of the United Nations of the establishment of such a registry. 2. Where there are two or more launching States in respect to any such space object, they shall jointly determine which one of them shall register the object in accordance with paragraph 1 of this article, bearing in mind the provisions of Art. VIII of the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies, and without prejudice to appropriate agreements concluded or to be concluded among the launching States on jurisdiction and control over the space object and over any personnel thereof. 3. The contents of each registry and the conditions under which it is maintained shall be determined by the State of registry concerned.

Art. III established that the Secretary General of the United Nations shall maintain a Register in which the information furnished in accordance with Art. IV shall be recorded. There shall be full and open access to the information in this Register.

Art. IV established the kind of information that States should furnish to the Secretary General of the United Nations. 1. Each State of registry shall furnish to the Secretary General of the United Nations, as soon as practicable, the following information concerning each space object carried on its registry: a) name of launching State or States; b) an appropriate designator of the space object or its registration number; c) date and territory or location of launch; d) basic orbital parameters, including:

i) nodal period, ii) inclination, iii) apogee, and iv) perigee; e) general function of the space object. 2. Each State of registry may, from time to time, provide the Secretary General of the United Nations with additional information concerning a space object carried on its registry. 3. Each State of registry shall notify the Secretary General of the United Nations, to the greatest extent feasible and as soon as practicable, of space objects concerning which it has previously transmitted information, and which have been but no longer are in earth orbit.

In accordance with Art. VI, where the application of the provisions of this Convention has not enabled a State Party to identify a space object which has caused damage to it or to any of its natural or juridical persons, or which may be of hazardous or deleterious nature, other States Parties, including in particular States possessing space monitoring and tracking facilities, shall respond to the greatest extent feasible to a request by that State Party, or transmitted through the Secretary General on its behalf, for assistance under equitable and reasonable conditions in the identification of the object. A State Party making such a request shall, to the greatest extent feasible, submit information as to the time, nature and circumstances of the events giving rise to the request.

According to the draft, the Convention is open for signature by all States at United Nations Headquarters in New York. The Convention shall enter into force among the States which have deposited instruments of ratification on the deposit of the fifth instrument with the Secretary General of the United Nations.

INTERNATIONAL BAUXITE ASSOCIATION

On March 8, 1974, the Governments of Australia, Guinea, Guyana, Jamaica, Sierra Leone, Surinam and Yugoslavia signed an agreement establishing the International Bauxite Association.

The Association is open to the above countries and to any other bauxite producing country which, in the opinion of the Council of Ministers, is able and willing to exercise the rights and to assume the obligations of membership arising under the Agreement (Art. II).

Art. III spells out the objectives of the Association as follows: a) To promote the orderly and rational development of the bauxite industry; b) to secure for member countries fair and reasonable returns from the exploitation, processing and marketing of bauxite and its products for

the economic and social development of their peoples bearing in mind the interests of consumers; c) generally, to safeguard the interests of member countries in relation to the bauxite industry.

The obligations of Member States are set forth in Art. IV. The member countries shall, *inter alia*: a) Exchange information concerning all aspects of the exploitation, mining, processing and marketing and use of bauxite, alumina and aluminium, bearing in mind the need to ensure that: i) member countries enjoy reasonable returns from their production; ii) the consumers of these commodities are adequately supplied at reasonable prices; c) take action aimed at securing maximum national ownership of and effective national control over the exploitation of this natural resource within their territories and to support, as far as possible, any such action on the part of member countries; d) endeavour to ensure that operations or projected operations by multinational corporations in the bauxite industry of one member country shall not be used to damage the interests of other member countries; e) conduct jointly such research as may be deemed appropriate in their mutual interest; f) explore the possibilities of joint or group purchasing of materials and equipment and of providing common services to member countries in their mutual interest.

Art. VI establishes the following organs of the Association:

- a) The Council of Ministers
- b) The Executive Board
- c) The Secretariat.

The Council of Ministers shall be composed of Ministers of member countries. Each member country shall be entitled to designate a Minister as its representative on the Council of Ministers. (Art. VII.)

Art. VIII provides that the Council of Ministers shall be the supreme organ of the Association. The Council shall: a) Determine the policy of the Association; b) approve the budget of the Association; c) consider and determine applications for membership of the Association; d) appoint the Secretary General of the Association; e) consider and determine disputes among member countries concerning the interpretation and application of the Agreement; f) approve its own rules of procedure and those of the Executive Board; g) determine the international organizations with which the Association may be associated or affiliated in the performance of its functions; h) perform any other function which may from time to time be entrusted to it by agreement of member countries.

The Executive Board shall consist of representatives of member countries. Each member country shall be entitled to designate two representatives on the Executive Board (Art. X). The Executive Board shall, subject to the direction of the Council of Ministers, take all appropriate measures for the achievement of the objectives of the present Agreement (Art. XI).

The Secretariat shall consist of the Secretary General and such administrative, research, and other technical staff as may be required for the discharge of its functions. The Secretary General shall hold office for three years and shall be eligible for re-appointment (Art. XII).

The Agreement and any amendment thereto shall be subject to ratification or approval. Instruments of ratification or notification of approval shall be deposited with the Government of Jamaica which shall transmit certified copies to each member country (Art. XXI). The Agreement shall enter into force when the last instrument of ratification or notification of approval has been deposited with the Government of Jamaica by the signatory countries.

CONVENTION ON A CODE OF CONDUCT FOR LINER CONFERENCES

This Convention was adopted by the United Nations Conference of Plenipotentiaries on a Code of Conduct for Liner Conferences, held at the United Nations Office in Geneva from November 12 to December 15, 1973 and from March 11 to April 6, 1974. Seventy-nine Member States of UNCTAD participated in both sessions of the Conference. The following American countries were represented: Argentina, Bolivia, Brazil, Canada, Chile, Colombia, Cuba, Ecuador, El Salvador, Guatemala, Honduras, Jamaica, Mexico, Nicaragua, Panama, Peru, Trinidad and Tobago, United States of America, Uruguay and Venezuela.

Part one of the Convention contains the definitions of some of the terms used. For example, "liner conference or conferences": A group of two or more vessel-operating carriers which provides international liner services for the carriage of cargo on a particular route or routes within specified geographical limits and which has an agreement or agreements within the framework of which they operate under uniform or common freight rates and any other agreed conditions with respect to the provision of liner services. Other chapters of part one are concerned with relations among member lines, relations with shippers, freight shippers, freight rates, and other matters. Part two of the convention deals with provisions

and machinery for settlement of disputes. The convention is a lengthy document comprising fifty-four articles, many of which are subdivided into paragraphs.

As stated in the introductory note of the Final Act of the Conference, the adoption of the Convention culminates a historic effort by the international community to regulate commercial relationships. The event is all the more noteworthy inasmuch as it reflects government venture into an area where private commercial interests have operated almost without restriction. In the same note it is explained that a liner conference is essentially a carrier cartel in a given trade whose primary purpose is rate-fixing. It is also indicated that the developing countries were the moving force behind the Code and that they have viewed liner conferences, in most cases dominated by European shipping lines, as instruments of exploitation by the developed Western nations. Their attention focused in particular on freight rates, which they had little ability to affect. Also, on the character of service provided by conferences which they felt was unresponsive to national interests.

INTERNATIONAL LAW ASSOCIATION

The Association has scheduled a meeting in New Delhi, India, from December 28, 1974 to January 4, 1975. This will be the 56th Conference of the International Law Association.

The Agenda for this Conference comprises the following subjects: International commercial arbitration; settlement of international disputes under the Charter of the United Nations; foreign investments in the developing countries; legal aspects of the conservation of the environment; the enforcement and protection of human rights; international monetary law: the law of exchange guarantees for long-term international operations taking into consideration the proposals to reform the international monetary system; the law of outer space: telecommunications by satellite; international security and cooperation: self-determination, adhesion of States to disarmament treaties; international terrorism; traffic accidents: jurisdiction and insurance in claims for damage; the law of water resources: the protection of water resources and water installations in times of international conflict, legal aspects of maintenance and improvement of naturally navigable waterways, management of international waterways; law of the sea: underwater habitations, the U.N. Conference on the Law of the Sea; land-locked States.

FIFTH INTER-AMERICAN CONFERENCE ON COMMERCIAL ARBITRATION

This Conference is scheduled to be held in Bogota, Colombia, from December 4 to 6, 1974, and is organized by the Inter-American Commercial Arbitration Commission in cooperation with the Chamber of Commerce of Bogota.

It is expected that business and legal representatives from the American countries will participate in this Conference and will discuss new approaches to fact-finding, conciliation and arbitration of international economic disputes. The agenda comprises the analysis of the progress of inter-American commercial arbitration, the report from national sections and from international organizations, consideration of inter-American standards on commercial arbitration, and discussion of the program of work for 1975.